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German Tax and Legal News

Lower tax court holds 6% interest rate for pension accruals unconstitutional

Case has been referred to Federal Constitutional Court

In a decision dated October 12, 2017, the lower tax court of Cologne held that the 6% interest rate used to calculate pension accruals and that generally results in a low recognition of pension accruals for German tax purposes violates constitutional principles. The tax court, therefore, initiated a procedure before the Federal Constitutional Court (BVerfG) on the constitutionality of the 6% interest rate.

According to the lower tax court, the interest rate used to calculate pension accruals should be significantly lower than 6% based on the currently low market rates. Because of the significant divergence in rates, the rule for discounting pension accruals for tax purposes should have been revised.

In the light of the referral to the BVerfG, it is likely that court will have to rule on the constitutionality of the rule that results in a low recognition of pension accruals for German tax purposes. If the BVerfG renders a taxpayer-favorable decision, the legislature may be asked to reduce the interest rate.

Affected taxpayers should monitor developments and keep relevant periods open (e.g. by filing an objection and applying for the suspension of proceedings with regard to the case before the BVerfG).

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